

Exhibit 2

Part (2 of 2)

1 Isaac Rabinowitz

2 (The record was read by the reporter.)

3 Q. When you say "the same as the plan
4 shows," are you referring to the second page of
5 Rabinowitz 3?

6 A. The one who inspects, the person in
7 Sharon's office.

8 MR. POLISHOOK: I'm going to move to
9 strike as nonresponsive. Please read the
10 question and answer.

11 (The record was read by the reporter.)

12 Q. Prior to June 2, 2009, had anybody from
13 Sharon's office come to the construction project to
14 perform any type of inspection?

15 MR. POLISHOOK: Objection to form.

16 A. I don't remember.

17 Q. Was it the obligation of Sharon's office
18 to perform inspections at the construction project
19 prior to June 2, 2009?

20 MR. POLISHOOK: Objection. Sharon's
21 contract is not dated until after the incident.

22 MR. KULLER: Off the record.

23 (Discussion held off the record.)

24 MR. KULLER: We have a pending question.

25 (The record was read by the reporter.)

1 Isaac Rabinowitz

2 MR. POLISHOOK: Objection.

3 A. He sends occasionally, every once in a
4 while, whenever he feels like it he sends somebody.

5 MR. POLISHOOK: I am going to move to
6 strike as nonresponsive.

7 Q. Before June 2nd.

8 A. I don't understand the significance of
9 the date, the 2nd of June.

10 Q. The significance is that that's the date
11 of the accident.

12 A. I don't know when he was there. I don't
13 know if he was there on the same day, the day before.
14 I don't know.

15 Q. Can you be certain, Mr. Rabinowitz, that
16 prior to June 2nd, somebody from Mr. Sharon's office
17 came to the construction project to perform an
18 inspection?

19 MR. POLISHOOK: I object to form. The
20 proper question to ask is what he saw, what he
21 knows, not a vague question. There is no
22 foundation.

23 Q. Was Mr. Sharon the engineer for your
24 construction project on June 2nd, 2009?

25 MR. POLISHOOK: Objection to form. Calls

1 Isaac Rabinowitz

2 for legal conclusion.

3 MR. JUDD: I object in the same vein.

4 A. He was on board already, but he was
5 not -- still not with the Building Department.

6 Q. But on June 2, 2009, you considered
7 Mr. Sharon to be your engineer, correct?

8 MR. POLISHOOK: Objection to form. Calls
9 for a legal conclusion. Ask questions.

10 A. The plan he made was prior to that.

11 Q. When you say "the plan," are you
12 referring to the second page of Rabinowitz 3?

13 MR. POLISHOOK: Objection to form.

14 A. By the plan, I'm referring to all the
15 papers in --

16 MR. POLISHOOK: Is this Exhibit 7? I
17 don't know, I just want to be clear what he is
18 talking about.

19 MS. NOREK-HATCH: The witness is pointing
20 to Rabinowitz Exhibit 7.

21 MR. POLISHOOK: That's completely the
22 antithesis of his testimony earlier. If you
23 want to clarify as to what he is actually
24 talking about, Exhibit 7 is about hundreds of
25 pages, two sets of them dated after the

1 Isaac Rabinowitz

2 incident. Maybe you can clarify that.

3 Q. Was Mr. Sharon your engineer on June 2,
4 2009, in your mind?

5 MR. POLISHOOK: Objection to form. Calls
6 for a legal conclusion, speculative.

7 MR. JUDD: Objection. He was asked this
8 question at his last deposition.

9 MR. KULLER: There is a question pending.

10 A. As I said before, the decision to make
11 the wall, the concrete, was a decision made together
12 with him.

13 MR. POLISHOOK: Move to strike as
14 nonresponsive.

15 Q. Are you referring to Mr. Sharon when you
16 say "him?"

17 A. Yes.

18 MR. JUDD: Let's take a break.

19 (Recess taken.)

20 Q. Mr. Rabinowitz, I'm not concerned with
21 who was the engineer of record at the DOB on June 2,
22 2009. My question to you is whether in your own
23 mind, you believe that Sharon was serving as the
24 engineer for this construction project on June 2nd,
25 2009.

1 Isaac Rabinowitz

2 MR. POLISHOOK: I will object to form, to
3 "the engineer."

4 MR. JUDD: I object to form. You can
5 answer, if you understand it.

6 A. Yes.

7 Q. Were there any other engineers for this
8 construction project other than Ronan Sharon on June
9 2, 2009?

10 MR. POLISHOOK: Objection to form.

11 You're asking for a legal conclusion.

12 A. There was the old engineer, but nobody
13 took him off record.

14 Q. And you're referring to Oscar Walter of
15 Demerara Engineering, correct?

16 A. Yes.

17 Q. And prior to June 2, 2009, you had never
18 met Oscar Walters, correct?

19 A. Yes, correct.

20 Q. What was your understanding as to who the
21 architect for this construction project was on June
22 2, 2009?

23 A. We didn't change the architect.

24 MR. JUDD: He is asking who it was.

25 Q. Please feel free to look at Plaintiff's

1 Isaac Rabinowitz

2 Exhibit 7.

3 MR. JUDD: Do you know the name? Please
4 tell him that the question is whether he knows
5 the name of the architect as of the date that
6 that incident occurred.

7 Q. On June 2, 2009.

8 A. I don't remember the name. The name is
9 from there.

10 Q. Can you take a look at
11 Rabinowitz 7 and just point to the architect that
12 you're referring to, please.

13 MR. KULLER: Let the record reflect that
14 Mr. Rabinowitz is referring to Alan Patrick
15 Bruton on the drawing that has A-000 on the
16 bottom, stamped December 8, 2006.

17 Q. While we're over here -- why don't we
18 stay over there. I would like you, Mr. Rabinowitz,
19 to please show me what, to your knowledge, were the
20 drawings that were in effect for this construction
21 project on June 2nd, 2009.

22 MR. POLISHOOK: Object to form, to what
23 "in effect" means. He can answer.

24 MR. KULLER: Let me withdraw the question
25 and ask another one.

1 Isaac Rabinowitz

2 Q. Why don't you tell me, Mr. Rabinowitz,
3 what drawings you were relying upon on June 2nd, 2009
4 on this project.

5 MR. JUDD: Objection to form.

6 MR. POLISHOOK: Objection to form.

7 Assumes facts not in evidence. Can I have the
8 question again?

9 (The record was read by the reporter.)

10 A. In other words, what Orange County is
11 supposed to perform?

12 Q. The question is what drawings HSD was
13 utilizing and relying upon at the construction
14 project on June 2nd, 2009.

15 MR. POLISHOOK: I will object to form.

16 Assumes facts not in evidence, that they relied
17 on any drawings.

18 MR. JUDD: Objection. You can ask him if
19 he sees in Exhibit 7 any drawings that he
20 recognizes as being used during the project
21 prior to the incident.

22 Q. Do you see in Exhibit 7 any drawings that
23 HSD was relying upon on this construction project on
24 June 2nd, 2009?

25 MR. JUDD: I object to "relying upon."

1 Isaac Rabinowitz

2 If he can identify anything that's been used
3 during the project, prior to the accident, go
4 ahead and you can identify it.

5 MR. POLISHOOK: Same objection.

6 A. There is two buildings. Both of them
7 were constructed as per the drawings, the plan.

8 MR. POLISHOOK: Do you want to ask
9 specifically about this wall or generally about
10 the building?

11 Q. Let me ask the question. The building
12 I'm concerned about is Building A. Which drawings
13 were being utilized by HSD at this construction
14 project on June 2, 2009, with respect to the
15 construction of the walls at Building A?

16 MR. JUDD: Objection.

17 MR. POLISHOOK: Objection.

18 MR. JUDD: Objection to the use of the
19 term "Building A" because I don't recall you
20 ever asking him anything about what Building A
21 is.

22 Q. Did the accident occur in Building A,
23 Mr. Rabinowitz?

24 A. Yes.

25 Q. Now, the question is: What drawings was

1 Isaac Rabinowitz
2 HSD utilizing and relying upon in connection with
3 Building A, in the construction work at Building A,
4 on June 2nd, 2009?

5 MR. POLISHOOK: Objection to form. Still
6 assumes facts not in evidence.

7 MR. JUDD: Objection.

8 Q. Please answer the question.

9 A. We used everything.

10 MR. JUDD: Let me go outside for one
11 minute.

12 (Recess taken.)

13 Q. Was HSD relying upon drawings in
14 connection with the construction project as of June
15 2nd, 2009?

16 MR. JUDD: Read that back, please.

17 (The record was read by the reporter.)

18 MR. JUDD: Object to form.

19 MR. POLISHOOK: Objection.

20 Q. Yes or no, Mr. Rabinowitz?

21 THE INTERPRETER: I need the question
22 read back.

23 (The record was read by the reporter.)

24 Q. With everything that was possible, there
25 was, and it showed we relied on other things. We

1 Isaac Rabinowitz

2 needed to take other details.

3 Q. Do you see in the drawings that have been
4 marked today as Rabinowitz Exhibit 7 any of the
5 drawings that you were relying upon at the
6 construction project as of June 2nd, 2009?

7 MR. JUDD: Object to form. You can
8 answer.

9 A. What specifically do you want to know?

10 Q. I want to know whether you see in front
11 of you any of the drawings that you were relying
12 upon.

13 MR. POLISHOOK: You want him to point
14 them out, right, Brett?

15 MR. KULLER: It's a yes or no answer.

16 A. The buildings were constructed in such a
17 way. The one who did work prior to me relied upon
18 these, yes.

19 MR. JUDD: You're talking about the
20 general contractor before you?

21 THE WITNESS: Yes.

22 Q. Was HSD relying upon any of the drawings
23 that we're looking at right now as of June 2nd, 2009?

24 MR. JUDD: Objection to form.

25 A. HSD in the end had to come in and repair

1 Isaac Rabinowitz

2 everything. Nothing of this was worth anything.

3 MR. POLISHOOK: Object to form. Maybe
4 it's my fault. Maybe they should have been
5 marked separately. It's confusing the answer.

6 Q. Is it your testimony, Mr. Rabinowitz,
7 that on June 2nd, 2009, HSD was not relying upon any
8 of the drawings contained within Exhibit 7 that we
9 are looking at right now?

10 MR. JUDD: Object to form.

11 A. I needed to rely upon them, but there
12 were repairs on each and every thing.

13 Q. So the answer is, yes, there are drawings
14 in Rabinowitz Exhibit 7 that HSD was relying upon on
15 June 2nd, 2009?

16 MR. JUDD: Object to form.

17 A. Except those that we needed to repair.

18 Q. When you say "repair," what are you
19 referring to?

20 A. There was need to have repairs on the
21 steel. There were certain things that we changed
22 into cement, from blocks to cement.

23 Q. I would like you to --

24 THE INTERPRETER: I don't think he
25 finished.

1 Isaac Rabinowitz

2 THE WITNESS: I am finished.

3 Q. With respect to the construction of the
4 walls at 50 North First Street, what drawings, if
5 any, in this pile, depict what the walls were
6 supposed to be composed of as of June 2nd, 2009?

7 MR. JUDD: Object to form.

8 MR. POLISHOOK: Object to form also.

9 Q. Feel free to take as much time as you
10 need to look at these plans.

11 A. There is another point I want to make
12 that I spoke of prior to this. The wall that you're
13 asking about, as far as I remember, there was another
14 plan, and I don't see it.

15 Q. Where did you get that plan from?

16 A. I got it from Gold. At that time I got
17 all the plans from Gold, except for when you brought
18 in Sharon.

19 Q. And those plans that you obtained from
20 Gold that you don't see here today, do you still have
21 those?

22 A. I looked for it and I couldn't find it.

23 MR. KULLER: We call for production of
24 the plans that Mr. Rabinowitz is referring to
25 that were provided to him by Gold, that he

1 Isaac Rabinowitz

2 doesn't see. I ask that those be produced. As
3 of today, they haven't been produced.

4 A. I looked at my place, I looked at Gold
5 and I couldn't find it. I looked in the storage.

6 MR. JUDD: Put your request in writing
7 and we will take it under advisement.

8 Q. With respect to Rabinowitz Exhibit 7,
9 what I'm looking at right now is the cover sheet of
10 drawings that are dated August 3rd, 2009, listing an
11 architect named Aston Architecture, PC. I'd like you
12 to please, Mr. Rabinowitz, look through these
13 drawings and tell me with respect to these specific
14 drawings whether you had seen these drawings prior to
15 June 2nd, 2009.

16 MR. JUDD: Everything contained in that
17 or on the front page of that?

18 MR. POLISHOOK: I object to form to the
19 extent the drawings are dated about two months
20 after the accident. He can answer the question,
21 obviously.

22 MR. KULLER: I just want to know if he
23 saw those before June 2nd, 2009.

24 MR. JUDD: Object on the same ground.

25 A. Yes. Not only that, but I also asked

1 Isaac Rabinowitz

2 Sharon and he also asked for a copy. When I hired
3 Sharon, he asked me for a plan that -- for a plan
4 that I have.

5 MR. POLISHOOK: Move to strike as
6 nonresponsive.

7 Q. When you hired Mr. Sharon, he asked you
8 what plans you have possession of?

9 A. Yes. He wanted to know what took place
10 up until that day and then that way he would be able
11 to move forward.

12 Q. And that was prior to June 2, 2009,
13 correct?

14 A. Yes.

15 Q. So this file of drawings -- why don't you
16 show me what you provided to Mr. Sharon prior to June
17 2nd, 2009.

18 MR. POLISHOOK: If anything, because
19 you're referring to records that are two months
20 after.

21 MR. KULLER: He testified he saw it prior
22 to June 2nd.

23 MR. POLISHOOK: Read that again.

24 (The record was read by the reporter.)

25 MR. POLISHOOK: I object as asked and

1 Isaac Rabinowitz

2 answered.

3 MR. JUDD: Objection.

4 MR. POLISHOOK: He can answer the
5 question. It's proper.

6 A. All of it. This I gave. This he
7 certainly got.

8 MR. KULLER: Please let the record
9 reflect that Mr. Rabinowitz is testifying that
10 the drawings that were provided to Mr. Sharon
11 prior to June 2nd, 2009 are drawings that have
12 Demerara Engineering, PLLC noted and the
13 architect of record is Alan Patrick Bruton. The
14 mechanical engineer is AAA Omvraki Consulting,
15 P.C., and they are stamped March 28, 2008.

16 MR. POLISHOOK: Object to counsel's
17 characterization of testimony.

18 MS. NOREK-HATCH: Just so the record is
19 clear, this is from Rabinowitz Exhibit 7. These
20 particular plans were previously identified as
21 being dated 3/19/08, being Demerara, with the
22 first page being S-1 and the last page S-15.

23 MR. JUDD: Objection on the same grounds.

24 MS. NOREK-HATCH: They're originally
25 dated 3/19/08.

1 Isaac Rabinowitz

2 MR. KULLER: That's correct.

3 Q. I'd like you to show me, Mr. Rabinowitz,
4 in these drawings what pertains to construction of
5 the walls that were adjacent to 48 North First
6 Street.

7 MR. POLISHOOK: I am just going to object
8 as far as the competence of the witness to do
9 that. He testified he does not read English.
10 He also testified he is not an engineer. I
11 don't think he has the competence to answer. He
12 can answer over objection.

13 MR. JUDD: I agree. Same grounds.

14 MR. KULLER: He testified he reads plans
15 all the time. If he has a question about the
16 English, he asked a professional.

17 MR. POLISHOOK: You're showing him plans
18 without the assistance of Mr. Dushinsky.

19 MR. KULLER: Yes, I am, and I'm asking if
20 he sees specifications for construction of the
21 walls that were adjacent to 48 North First
22 Street.

23 MR. JUDD: If there are any.

24 A. I can't answer that.

25 Q. Why can't you answer that?

1 Isaac Rabinowitz

2 A. I have to go over the entire file. I
3 don't understand it.

4 Q. When you say "go over the entire file,"
5 you mean the drawings that are sitting in front of
6 you?

7 MR. JUDD: I object to the form of the
8 question.

9 A. Yes.

10 Q. Please take your time. Take a look at
11 these drawings. For the record, it's --

12 A. Time will not help me. I will have to
13 have somebody assist me to look at it and read this.

14 MR. JUDD: You're asking him to read a
15 page of English when he testified he can't do
16 that.

17 MR. KULLER: I'm asking him to show me in
18 the drawings where it shows the construction of
19 the concrete walls -- sorry, where it shows the
20 construction of the wall at 50 North First
21 Street.

22 MR. POLISHOOK: I will object.

23 Q. Mr. Rabinowitz, is it your testimony that
24 you can't tell from looking at the drawings what
25 pertains to the construction of the walls at 50 North

1 Isaac Rabinowitz

2 First Street?

3 A. No. I don't understand. I can't read
4 it.

5 Q. When we took a break last time you
6 reviewed all the drawings. You had a problem reading
7 all the drawings when we took a break?

8 MR. POLISHOOK: Objection.

9 A. I didn't read anything. I just looked at
10 the details.

11 Q. Okay. And would the details tell you
12 anything with respect to the construction of the
13 walls?

14 MR. POLISHOOK: Object to form.

15 A. Not clearly.

16 MR. JUDD: I object to the line of
17 questioning as to form and I object to the tone
18 of the questioning.

19 Q. Was there one set of plans that provided
20 for the construction of the walls at 50 North First
21 Street to be cinderblock, yes or no?

22 MR. POLISHOOK: Object to form.

23 MR. JUDD: If you know.

24 A. There were two plans. One was showing
25 the blocks and Sharon was supposed to show the

1 Isaac Rabinowitz

2 concrete.

3 MR. POLISHOOK: Objection to form.

4 Q. Do you see the ones that show the
5 concrete?

6 A. I remember that there was one that also
7 showed concrete, but I don't see it here.

8 Q. Do you see the one that showed
9 cinderblocks?

10 A. Yes.

11 Q. Can you please point it out for me?

12 MR. POLISHOOK: I am going to object to
13 form and competence again.

14 A. No. If somebody will be next to me and
15 show it to me and I can go over it, I can answer.

16 MR. JUDD: You don't recognize it on your
17 own?

18 THE WITNESS: Alone it would be detail.

19 Each little detail would change it.

20 Q. Can you tell, Mr. Rabinowitz, from
21 looking at this drawing right here, which for the
22 record is A-012, stamped December 8, 2006, architect
23 of record, Alan Patrick Bruton; engineer, Steven
24 Kaplan, can you tell me looking at this drawing, what
25 the walls were supposed to be composed of at 50 North

1 Isaac Rabinowitz

2 First Street?

3 MR. POLISHOOK: Objection.

4 MR. JUDD: I object to form.

5 MR. POLISHOOK: Same objection,
6 competence.

7 A. Am I permitted to ask you a question?

8 Q. Yes, of course.

9 A. I don't understand what difference does
10 it make whether I do or do not recognize the walls on
11 this drawing. The point is you are representing the
12 person who poured the concrete. I invited that
13 person to do the work, pour the concrete, and he knew
14 that that was the work that he was supposed to
15 perform.

16 Q. I have a question for you. Did you
17 provide any of the drawings that you see here in
18 Rabinowitz Exhibit 7 to Orange County Superior
19 Concrete?

20 A. I don't remember. I really don't
21 remember.

22 Q. Do you remember if you provided any
23 drawings to Orange County Superior Concrete?

24 A. I don't remember if I gave them both or I
25 only gave him Sharon's. I don't remember. The

1 Isaac Rabinowitz
2 bottom line is that he took the work to pour the
3 concrete and he performed concrete work. The whole
4 thing happened because of him, so I don't understand
5 all this.

6 Q. We will come back to this.

7 Do you ever enter into contracts that are
8 written in English before Mr. Dushinsky reads them to
9 you?

10 MR. JUDD: Objection.

11 A. No.

12 MR. TOBIN: As him does he ever sign
13 contracts.

14 Q. Do you ever sign contracts written in
15 English if Mr. Dushinsky does not explain them to
16 you?

17 A. No.

18 MR. JUDD: I believe that was asked at
19 his last deposition.

20 Q. Do you ever enter into a contract on
21 behalf of HSD unless -- strike that.

22 Is it fair to say that you wouldn't enter
23 into a contract on behalf of HSD unless both you and
24 Mr. Dushinsky agree?

25 MR. JUDD: I object to the form because I

1 Isaac Rabinowitz

2 don't know what you mean. Agree to what?

3 MR. KULLER: Agree that they should enter

4 into a contract.

5 A. Everything goes through Dushinsky.

6 Q. So in all decisions made by HSD to enter
7 into a contract, there has to be agreement between
8 you and Dushinsky to enter into it. Correct?

9 MR. JUDD: Objection to form.

10 A. Correct.

11 Q. I am showing you what was marked at the
12 deposition of August 9th as Rabinowitz 1. This is
13 your contract for Gold for this construction project.
14 Correct.

15 A. Yes.

16 Q. Was it modified at any time?

17 A. No.

18 Q. Were there any amendments or additions or
19 changes to the contract at any time?

20 A. No.

21 Q. Who supplied the form? Was it Gold or
22 HSD?

23 MR. POLISHOOK: Objection to form.

24 Sorry, I withdraw my objection.

25 A. I don't remember.

1 Isaac Rabinowitz

2 Q. At the top of the contract, it says "AIA
3 Document A-101-1997." Have you used that form
4 before, that specific form for other construction
5 projects, such a contract?

6 A. I don't know.

7 Q. Have you used this form at any time after
8 the 50 North First Street project?

9 A. I don't know, but as a general rule, I
10 never work for someone else. We don't take work for
11 third parties. We do everything on our own. Several
12 other minor things we took on but, generally, we
13 don't take a third party.

14 MR. JUDD: I'm sorry, can you read that
15 back.

16 (The record was read by the reporter.)

17 Q. You said there were no modifications to
18 the contract, correct?

19 A. No.

20 (Rabinowitz Exhibit No. 8, AIA Document
21 A-201-1997, was received and marked for
22 identification.)

23 Q. Mr. Rabinowitz, I'm handing you what's
24 been marked as Rabinowitz Exhibit 8. I'd like to
25 invite your attention to Rabinowitz 1. Top of

1 Isaac Rabinowitz

2 Rabinowitz 1 says "AIA Document A-201-1997. General
3 conditions of the contract for construction is
4 adopted in this document by reference. Do not use
5 with other general conditions unless this document is
6 modified."

7 This is the exhibit that I've handed you,
8 it's Rabinowitz 8, AIA Document A-201-1997. My
9 question to you is: Did you and Mr. Dushinsky review
10 this document at any time prior to signing
11 Rabinowitz 1?

12 MR. JUDD: If you remember.

13 A. I don't remember.

14 Q. Have you ever utilized that form, AIA
15 Document A-201-1997 in connection with any other
16 construction project?

17 A. I don't remember.

18 Q. Were there any other contract documents
19 for this construction project between you and Gold,
20 other than Rabinowitz 1?

21 A. No.

22 MR. JUDD: Any other contracts you said?

23 MR. KULLER: Contract documents.

24 Q. You had testified a little while ago
25 about some inspections with respect to rebar at the

1 Isaac Rabinowitz

2 construction project. Are you sure that there was
3 any inspection of the rebar at the construction
4 project used with the pouring of the concrete walls
5 prior to June 2, 2009?

6 MR. POLISHOOK: Objection to form.

7 MR. JUDD: Objection. Asked and
8 answered.

9 A. I'm not certain, no. I never said that
10 there definitely was. I said perhaps there was an
11 inspection.

12 Q. What leads you to say "perhaps there was
13 an inspection?"

14 MR. POLISHOOK: Objection to form.

15 MR. JUDD: Objection.

16 MR. POLISHOOK: Speculative.

17 A. I don't know for certain because I know
18 how Sharon operates. Occasionally he does send
19 people on other jobs to inspect, so he might have
20 done that.

21 Q. You're just not certain whether that
22 happened before June 2nd, 2009?

23 MR. JUDD: Objection.

24 MR. POLISHOOK: Objection.

25 A. I don't know.

1 Isaac Rabinowitz

2 Q. Have you ever served as -- strike that.
3 About how many construction projects has
4 HSD served as a general contractor for?

5 MR. JUDD: When?

6 MR. KULLER: At any time.

7 MR. JUDD: At any time? In what year?

8 MR. KULLER: In his history at HSD.

9 MR. JUDD: I certainly object.

10 Q. All I want to know is about how many
11 construction projects HSD has worked on.

12 MR. JUDD: Objection.

13 A. I don't know.

14 Q. More than ten?

15 MR. JUDD: You're not giving him any time
16 period. You're not asking for an average.
17 You're asking a question that's completely in a
18 vacuum.

19 Q. Has HSD served as general contractor for
20 more than ten construction projects?

21 MR. JUDD: When?

22 MR. KULLER: It doesn't matter when. He
23 is the president of HSD Construction. He can
24 certainly testify as to how many jobs, in his
25 estimation, construction projects HSD has served

1 Isaac Rabinowitz

2 as general contractor.

3 MR. JUDD: That they have ever done?

4 MR. KULLER: Yes.

5 A. I don't know.

6 Q. More than ten?

7 A. Perhaps.

8 Q. More than 20?

9 A. I don't remember.

10 Q. Has HSD ever served as a general
11 contractor in connection with a contract for a
12 construction project that entailed the pouring of
13 walls similar to those poured at 50 North First
14 Street?

15 MR. JUDD: Objection.

16 MR. POLISHOOK: I will object too.

17 A. We are involved, but I don't know what
18 difference it makes to you.

19 Q. My question, Mr. Rabinowitz, is whether
20 HSD served as a general contractor for any
21 construction project where walls were being poured at
22 construction projects that were similar to the walls
23 that were poured at 50 North First Street.

24 MR. JUDD: Objection.

25 MR. POLISHOOK: I also object to the same

1 Isaac Rabinowitz

2 question.

3 A. Something like this we never had before.

4 The main problem is that here we came in in the
5 middle and I had to correct the previous errors. The
6 base wasn't good. Today I'm doing buildings with
7 pouring of concrete from the top to the bottom.

8 MR. JUDD: Just answer the question.

9 MR. KULLER: Don't instruct the witness
10 while a question is pending.

11 A. I make buildings out of steel. I make a
12 lot of things. Each thing is different, each one is
13 different. But here the problem was that I came in
14 in the middle. A lot of things were missing.

15 Q. In fact, you came in in the middle and
16 things were missing and you said that there were, you
17 know, deficiencies and problems with the drawings.

18 In your opinion, did those issues factor
19 into this accident?

20 MR. JUDD: Objection.

21 MR. POLISHOOK: Objection to form,
22 competence.

23 MR. POLISHOOK: He is not an expert.

24 A. The problem here occurred because the
25 company never performed such work. They did work in

1 Isaac Rabinowitz

2 upstate foundations.

3 Q. When you say "the company," you mean
4 Orange County?

5 A. Yes.

6 Q. How do you know exactly what type of work
7 Orange County was engaged in prior to this
8 construction project?

9 A. I asked Joel Falkowitz and he admitted to
10 that.

11 Q. That he had never done similar work to
12 that at 50 North First Street?

13 A. That he never did work like that.

14 Q. How come you hired them?

15 A. It's a good question.

16 Q. Do you have an answer?

17 A. No.

18 Q. Did it cause you concern that he didn't
19 have experience doing this type of work?

20 MR. POLISHOOK: Objection to form.

21 A. At that time I had no idea that he worked
22 without forms. I thought he would work normally.

23 MS. NOREK-HATCH: Would you read back the
24 question and answer.

25 (The record was read by the reporter.)

1 Isaac Rabinowitz

2 Q. And you knew prior to the time that you
3 hired Orange County that they didn't have any
4 experience doing this type of work?

5 MR. POLISHOOK: Object to form.

6 MR. JUDD: Objection to form.

7 A. I didn't know exactly, no.

8 Q. When did you find that out?

9 A. When the accident happened.

10 Q. And what did Mr. Falkowitz say to you?

11 A. On the place, Mr. Falkowitz said that he
12 knows that he is responsible for the accident. From
13 that time to this time, I had no idea that I will
14 have to spend all the days such as I am now doing
15 this.

16 Q. You had no idea throughout the time that
17 Orange County was rendering services at North First
18 Street that no form was being used on the wall that
19 collapsed on that site. Correct?

20 MR. JUDD: Objection to form.

21 MR. POLISHOOK: I object to form. There
22 is no foundation.

23 A. It's A, B, C. He has the expertise.
24 He's the person who needs to know what to use and how
25 to use it.

1 Isaac Rabinowitz

2 Q. Had you known that forms were not being
3 utilized, two-sided forms on the side of the wall
4 with 48 North First Street, would you have stopped
5 the work?

6 A. Absolutely.

7 MR. JUDD: Objection.

8 A. Certainly.

9 Q. Was it possible to use a form on the
10 side, on the wall where 48 North First Street
11 collapsed?

12 MR. POLISHOOK: Objection to form.

13 MR. JUDD: I object also because he is
14 not an expert. He can't answer that question.

15 MR. POLISHOOK: Same objection. You can
16 still answer. It's an objectionable question.

17 THE INTERPRETER: What was the question?

18 (The record was read by the reporter.)

19 A. It was possible it was necessary, but he
20 would have had to leave it inside.

21 Q. Would it have been proper to leave wooden
22 forms inside after the concrete had dried?

23 MR. JUDD: Objection.

24 MR. POLISHOOK: Same objection.

25 A. Why not?

1 Isaac Rabinowitz

2 Q. Would it rot?

3 A. But the wood doesn't hold it any longer.

4 MR. POLISHOOK: Objection to form. There
5 was no testimony there was wood forms.

6 MR. JUDD: Objection.

7 Q. In your opinion, it would be proper to
8 leave the forms inside the wall. Is that correct?

9 MR. JUDD: Objection to form.

10 A. Seemingly, yes.

11 MR. POLISHOOK: Same objection.

12 Q. Is there a specific type of form that
13 would have been most proper to use on this type of
14 wall?

15 MR. JUDD: Objection.

16 A. I don't know.

17 Q. Had you worked on a construction project
18 where a two-sided form was used like you're
19 suggesting one should have been used here?

20 MR. JUDD: Objection to form.

21 A. No.

22 Q. So you've never been involved with a
23 construction project where you were pouring a
24 concrete wall adjacent to another building?

25 MR. JUDD: Objection.

1 Isaac Rabinowitz

2 A. The wall itself, not, but poles, yes.

3 Q. I don't understand what you mean by
4 poles. Can you please explain?

5 THE INTERPRETER: Columns instead of
6 poles.

7 A. Columns. There was work on sites that I
8 worked on that I saw the neighbor left columns, forms
9 that he constructed.

10 Q. Have you ever been involved in a
11 construction project where the concrete that was
12 being poured was poured directly against an adjacent
13 building?

14 A. Not concrete walls.

15 Q. When during the course of Orange County's
16 pouring of the walls -- when I say "walls," I'm
17 talking about the walls adjacent to 48 North First
18 Street.

19 When do you believe an inspection of that
20 work should have taken place?

21 MR. JUDD: Objection.

22 MR. POLISHOOK: Objection. Calls for
23 legal conclusion, lack of foundation, et cetera.

24 A. During that period, I don't know what the
25 Building Department's rules were. I don't know.

1 Isaac Rabinowitz

2 Q. Should any inspection have taken place?

3 MR. POLISHOOK: Objection to form. He is
4 not an expert.

5 MR. JUDD: Objection. Same objection.

6 Q. You can answer.

7 A. Today the Building Department obligates
8 that. At that time it was a little green. If you
9 had to do -- we had to make a little hole in the wall
10 and take out some concrete, send it to a laboratory
11 and they would see if it's the right thing or not.

12 Q. What lab?

13 MR. JUDD: I said answer what you're
14 asked.

15 MR. KULLER: There is a question pending.

16 MR. JUDD: It was after he answered your
17 question.

18 Q. At what point in time was concrete sent
19 to a laboratory to be tested?

20 MR. POLISHOOK: I am going to object to
21 form. There is no foundation.

22 A. At the end of the project.

23 Q. I'm talking about with respect to the
24 pouring of the walls at 50 North First Street. Are
25 you sure that at some point in time the concrete was

1 Isaac Rabinowitz

2 sent to a lab to be tested?

3 MR. POLISHOOK: Objection to form.

4 That's not what he testified.

5 A. Yes. Before they were supposed to
6 take -- before they give a C of O. It was supposed
7 to be taken before that time.

8 Q. Who would have been responsible for doing
9 that?

10 MR. POLISHOOK: Objection to form.

11 MR. JUDD: Objection as well.

12 A. I don't understand. What difference does
13 it make in regard to all of this incident?

14 Q. Who would have taken that concrete to be
15 tested? Whose job was that at this construction
16 project?

17 MR. POLISHOOK: Objection. Calls for
18 legal conclusion based on a contractual issue.

19 It's not a proper question.

20 MR. JUDD: Yes, exactly.

21 MR. POLISHOOK: Irrelevant also.

22 MR. JUDD: Yes, it's irrelevant.

23 A. You got your answer. I don't have what
24 to say.

25 MR. KULLER: Please repeat the question.

1 Isaac Rabinowitz

2 (The record was read by the reporter.)

3 A. What difference does it make? If I would
4 have been the one and it wasn't right, I would go
5 with him to court that he wasn't doing the right
6 thing.

7 Q. All I want to know is whose job it was at
8 the construction project to take the testing to the
9 lab.

10 MR. JUDD: Objection.

11 MR. KULLER: I still haven't got an
12 answer. It's objected to and it's still pretty
13 simple, whose job it was at the construction
14 project to send the concrete to be tested at the
15 laboratory.

16 MR. POLISHOOK: Objection.

17 A. As a general rule, we are supposed to
18 get -- before any job is done, we are supposed to get
19 a detailed list of what is going to be used and how
20 it's going to be used. And then if anything is
21 amiss, then we hire a company to take out the
22 concrete and have it tested. If there is anything
23 wrong, then I would take him to court.

24 THE INTERPRETER: Is that what you said?

25 Am I right?

1 Isaac Rabinowitz

2 THE WITNESS: Yes.

3 THE INTERPRETER: There are other things
4 that he said that it wasn't as detailed as it is
5 now. It wasn't a requirement such as it is now
6 by the Building Department at that time. At
7 that time it wasn't -- there wasn't such a
8 strong requirement to have more details as there
9 is now.

10 Q. At that time, was there any requirement
11 that the form work should have been inspected at any
12 time at the construction project?

13 MR. JUDD: Objection.

14 MR. POLISHOOK: Objection. You're
15 calling for a legal conclusion, for either the
16 Department of Buildings code or legal matters.
17 It's not a proper question.

18 MR. KULLER: He served as general
19 contractor for the construction project.

20 MR. POLISHOOK: He can answer.

21 A. I don't know.

22 Q. Should there have been any type of
23 quality control conducted with respect to the
24 concrete work?

25 MR. JUDD: Objection.

1 Isaac Rabinowitz

2 MR. POLISHOOK: Objection to form.

3 A. I don't know.

4 Q. Was Mr. Dushinsky the superintendent of
5 construction for this construction project?

6 A. Yes.

7 Q. As superintendent of construction, what
8 were Mr. Dushinsky's obligations?

9 A. He would come and inspect the safety and
10 all those sorts of things.

11 MS. NOREK-HATCH: Would you read back the
12 answer.

13 (The record was read by the reporter.)

14 Q. Do you know whether there were any
15 controlled inspections conducted with respect to the
16 construction project?

17 A. I don't know.

18 Q. Whose job would it be to schedule a
19 controlled inspection with respect to this
20 construction project?

21 MR. POLISHOOK: Objection to form.

22 MR. JUDD: Objection.

23 A. Again, one of the issues here is that I
24 came in in the middle. Maybe there were some done
25 before. I don't know.

1 Isaac Rabinowitz

2 Q. My question is, whose job is it at the
3 construction project to schedule the controlled
4 inspections?

5 A. If you're asking me as of today, when I
6 do other construction work and so forth, the person
7 who does the concrete takes care of the concrete and
8 also does the quality control.

9 Q. With respect to the construction project
10 at 50 North First Street, was that the case, that
11 Orange County was responsible for scheduling the
12 controlled inspections?

13 MR. POLISHOOK: Objection.

14 A. I can't speak of something I don't know
15 of. They didn't speak of it, so I don't know.

16 Q. Did you have any discussion with Orange
17 County regarding inspection of their work?

18 A. I don't know.

19 Q. Did you have any representative from HSD
20 who was inspecting the work that Orange County was
21 performing?

22 A. No.

23 Q. Is there anything about this construction
24 project that Mr. Dushinsky may know that you don't
25 know?

1 Isaac Rabinowitz

2 MR. JUDD: Objection. Calls for
3 speculation.

4 A. No.

5 Q. The only individuals on behalf of HSD
6 that were ever present at the construction site were
7 you, Dushinsky and Vitriol?

8 A. Yes.

9 Q. What was Mr. Vitriol's title?

10 MR. JUDD: That was asked and answered at
11 his initial deposition, I believe.

12 A. I said -- I already spoke of that a few
13 times. He was the man on the scene. He was the man
14 in the field who took care of all the workers who
15 might have been around the area to clean, do lighting
16 and so on.

17 Q. Did you have any duties with respect to
18 Orange County's work?

19 MR. JUDD: Objection.

20 A. Just I knew when he was supposed to come
21 and I was in contact with him telephonically and I
22 knew whether they came, whether they were working or
23 not working.

24 Q. Did you tell Orange County that if they
25 had specific questions they should deal with Sharon

1 Isaac Rabinowitz

2 directly?

3 MR. POLISHOOK: Objection to form.

4 A. Yes.

5 Q. Did you ever have any discussion with
6 Mr. Sharon about using the wall of 48 North First
7 Street as a form?

8 MR. POLISHOOK: Objection to form.

9 THE INTERPRETER: I can't concentrate.

10 When I get interrupted, I lose my concentration.

11 I need to hear the question again.

12 (The record was read by the reporter.)

13 MR. POLISHOOK: Objection.

14 A. No, not me.

15 Q. So is it fair to say you hired Orange
16 County Superior Concrete and you didn't give them any
17 direction or detail about how to perform the work?

18 MR. JUDD: Objection.

19 A. Yes.

20 Q. And if Orange County had any questions
21 whatsoever, they were supposed to ask Sharon,
22 correct?

23 MR. POLISHOOK: Objection to form.

24 A. Yes.

25 Q. Is there anyone other than Mr. Sharon

1 Isaac Rabinowitz
2 that Orange County should have spoken with if Orange
3 County had any questions about the details of its
4 work?

5 MR. POLISHOOK: Objection to form.

6 Speculative question.

7 A. No.

8 Q. Did you ever have any discussion with
9 Orange County about using the wall of 48 North First
10 Street as a form?

11 MR. JUDD: Asked and answered.

12 MR. POLISHOOK: Objection. You asked
13 that three questions ago.

14 A. I said before no.

15 MR. JUDD: Correct. He said that.

16 Q. Do you know whether Mr. Vitriol had any
17 discussion with Orange County regarding Orange
18 County's work?

19 A. I don't know.

20 Q. What other subcontractors were hired at
21 this construction project?

22 MR. JUDD: By him?

23 MR. KULLER: Yes, by HSD.

24 A. At that time the framer began and the
25 carpenter. The same thing. It's the same thing.

1 Isaac Rabinowitz

2 Q. We will refer to them as the carpenter
3 or -- not carpenter. Were there other subcontractors
4 hired by HSD?

5 A. The plumber.

6 Q. Carpenter, plumber. Anyone else?

7 A. Electrician. There was an electrician,
8 but he was there before me.

9 Q. Did the electrician perform any work
10 while HSD was serving as the contractor?

11 A. No.

12 Q. Was the carpenter performing services at
13 the construction project while HSD was serving as
14 general contractor?

15 A. Yes.

16 Q. And the plumber, was the plumber
17 performing work while HSD was serving as the general
18 contractor?

19 A. Yes.

20 Q. Did HSD give the carpenter or the plumber
21 any instructions about how to perform the details of
22 their work?

23 A. No.

24 Q. So with respect to all the subcontractors
25 at the construction project, HSD never gave any

1 Isaac Rabinowitz
2 directions to the subcontractors about details of
3 their work. Is that correct?
4 MR. JUDD: Object to form.
5 A. Correct.
6 MR. KULLER: Let's take a quick break.
7 (Recess taken.)
8 MR. KULLER: Do we have the last question
9 answered?
10 (The record was read by the reporter.)
11 A. Each one gets a plan. Each one knows
12 what he is supposed to do. The one thing that we are
13 taking care of on a daily basis is the safety.
14 MR. JUDD: Please read that again.
15 (The record was read by the reporter.)
16 Q. Who at the construction project was in
17 charge of safety?
18 MR. POLISHOOK: Objection to form.
19 MR. JUDD: Object to the form too.
20 A. Each place is a different person.
21 Q. I'm talking about 50 North First Street.
22 MR. POLISHOOK: I still object.
23 A. I don't see Vitriol.
24 Q. What was the plan that was provided to
25 Orange County Superior Concrete?

1 Isaac Rabinowitz

2 MR. POLISHOOK: Objection to form.

3 Safety plan?

4 A. I don't see -- he is taking care of all
5 the safety issues, such as there shouldn't be
6 blocked -- the stairs should be safe and so forth,
7 but the answer is "nothing" to your question.

8 MS. NOREK-HATCH: I don't think he
9 understood the question.

10 MR. KULLER: He said a plan is given.

11 MS. NOREK-HATCH: I think the witness is
12 thinking you were talking about the safety plan.

13 Q. Mr. Rabinowitz, when you say that a plan
14 is given to each of the subcontractors, do you mean a
15 safety plan?

16 A. The architect has the plan of how it
17 should be built, the steel guy gets the plan for the
18 steel, and if we have blocks, it's windows. If we
19 have brick windows, it's windows. Everybody gets his
20 plan. Steel is steel.

21 Q. What exact plans were provided to Orange
22 County?

23 A. He got the plans that we got. Perhaps he
24 got plans from Sharon. I don't remember.

25 MR. POLISHOOK: Objection. Move to

1 Isaac Rabinowitz

2 strike to the extent "the plan" is vague and
3 plans have been identified.

4 Q. When you say the plans from Sharon, are
5 you referring to the second page of Rabinowitz 3?

6 A. When I speak of plans, I am speaking of
7 these plans (indicating).

8 Q. You're referring to the plans that are
9 marked as Rabinowitz Exhibit 7?

10 A. Yes.

11 Q. In addition to plans that may be
12 contained within Rabinowitz 7, was the second page of
13 Rabinowitz 3 also provided to Orange County?

14 MR. POLISHOOK: I am just going to object
15 to form. Don't put your hand in my face that
16 way, like you're going to hit me.

17 MR. JUDD: You're continuing to --

18 MR. KULLER: You're interrupting the
19 witness.

20 MR. POLISHOOK: I need to object to form
21 before he answers. My objection is to your
22 question, not his answer. It's completely
23 inappropriate and unprofessional behavior.

24 Q. What was the answer?

25 THE INTERPRETER: I don't need to hear it

1 Isaac Rabinowitz

2 again. I know the question.

3 A. I don't know whether that was included or
4 not. Perhaps he asked it and he did it for him. I
5 don't know whether that was included in the plan.

6 Q. Who provided the plans to Orange County?

7 MR. POLISHOOK: Objection to form. What
8 plans?

9 A. I did.

10 Q. Are you saying that you're not sure
11 whether or not you provided the second page of
12 Rabinowitz 3 to Orange County?

13 MR. POLISHOOK: Objection to form. Asked
14 and answered.

15 MR. JUDD: Objection. Asked and
16 answered. He just said he didn't remember.

17 A. I answered before.

18 Q. Is your answer you don't remember,
19 Mr. Rabinowitz?

20 MR. POLISHOOK: Objection to form.

21 MR. JUDD: Asked and answered.

22 A. What I said is that I don't know as a
23 result of what did Sharon do it. I don't know who
24 asked for it. I don't know.

25 Q. All I'd like to know, Mr. Rabinowitz, is

1 Isaac Rabinowitz
2 Rabinowitz Exhibit 3 and the plans that are sitting
3 here marked as an exhibit, Rabinowitz Exhibit 7, if
4 you know which specific plans were provided to Orange
5 County.

6 A. You're going over and over again the same
7 thing. What I know is that he got this plan that's
8 on table here. He might have gotten plans, prior
9 plans to it, and this one over here, I don't know.

10 MR. POLISHOOK: I'm just going to object
11 to the fact it didn't state a time period. Like
12 certain plans within Exhibit 7 postdate the
13 incident, but you may want to clear things up
14 for a clear record. "That plan," it's not
15 identified.

16 MR. JUDD: He didn't remember about
17 Number 3.

18 Q. Mr. Rabinowitz, I'm not trying to be
19 difficult with you. All I'm really trying to
20 understand is if you know which specific documents
21 you provided to Orange County.

22 A. That's what I'm saying. I'm saying I
23 gave him a set with Mr. Sharon and maybe he also got
24 prior ones. That, I don't know.

25 Q. When you say the set with Mr. Sharon, is

1 Isaac Rabinowitz

2 that set on the table right now?

3 A. Yes.

4 Q. Can you just please point it out for me?

5 MR. POLISHOOK: I am going to object to
6 form. Time frame wasn't specified. It looks
7 like the witness may be identifying something
8 that postdates the incident, so I'm not sure
9 what the significance is.

10 Q. Mr. Rabinowitz, you're referencing the
11 plans I'm pointing to right now. Is that correct?

12 A. Yes.

13 Q. These are the plans you're saying were
14 provided to Orange County?

15 MR. POLISHOOK: Objection to form. You
16 should identify what you're speaking about.

17 MR. KULLER: I will.

18 A. Perhaps there are -- there might be
19 revisions that Sharon did later on, but as you could
20 see here, there are two dates here. One was prior to
21 it, and then perhaps he amended or changed some
22 things, so there is another date.

23 MR. JUDD: Can you please point out to
24 Mr. Rabinowitz that the plans he is pointing to
25 have two dates on them?

1 Isaac Rabinowitz

2 MR. POLISHOOK: Three dates.

3 MR. JUDD: Please show him June 12, 2009.

4 Q. Please point to June 16, 2009 and July
5 1st, 2009. Do you understand, Mr. Rabinowitz, that
6 the accident happened on June 2nd, 2009?

7 MR. JUDD: He said that's why there might
8 be a revision.

9 MR. POLISHOOK: They haven't been
10 produced, though. None of that has been
11 produced. There are none.

12 Q. Do you understand, Mr. Rabinowitz, what I
13 am asking?

14 A. I understand.

15 Q. Mr. Rabinowitz, are you saying that --

16 MR. KULLER: So the record is clear,
17 Mr. Rabinowitz is referring to plans, the first
18 page which is S-001.01, General Notes, Sharon
19 Engineering, PC, with the date of July 1, 2009,
20 the first date on the top right corner.

21 Q. Mr. Rabinowitz --

22 MS. NOREK-HATCH: Top right corner, the
23 date the plans apparently were drawn is 6/12/09.

24 Q. Are you saying that these plans that we
25 are speaking about right now may have been revised

1 Isaac Rabinowitz

2 plans and that different plans were provided to
3 Orange County?

4 MR. POLISHOOK: Objection to form.

5 That's speculative and not a proper question.

6 MR. JUDD: Objection.

7 MR. KULLER: I'm trying to understand
8 what he is saying.

9 MR. POLISHOOK: Ask a proper question.
10 It's testimony, not a question.

11 THE INTERPRETER: I'm sorry, you hired
12 me. I am very well paid and I want to do my
13 job.

14 A. It's possible that the amended changes
15 were made after the incident, but the dates that he
16 made changes are here.

17 Q. Do you believe you may have the set that
18 you actually provided to Orange County?

19 MR. POLISHOOK: Objection to form. There
20 is no testimony he definitely provided anything
21 else to Orange County. It's just speculative.

22 MR. JUDD: Objection. Same reason.

23 MS. NOREK-HATCH: Can I ask a question?

24 MR. KULLER: Let him answer the question
25 first.

1 Isaac Rabinowitz

2 A. I gave everything I had.

3 Q. You gave everything you had to your
4 attorney?

5 A. Yes. I think so, yes. From that time I
6 left many things in the old office that I felt
7 weren't necessary or anything. At that time I had no
8 idea that I needed to hold on to things, that I was
9 going to get into complications.

10 MS. NOREK-HATCH: Mr. Rabinowitz, I just
11 want to ask you one question about this. As
12 best you recall, before the accident, had you
13 seen written plans that were prepared by
14 Mr. Sharon?

15 MR. POLISHOOK: Object to form.

16 THE WITNESS: As far as I remember, yes.

17 MS. NOREK-HATCH: Thank you.

18 MR. JUDD: It's now 5:00 o'clock and I am
19 going to stop the deposition because my client
20 has been produced for almost two complete days
21 and I am not at this point going to allow him to
22 testify any further. We have been told by
23 counsel that there is at least two more hours of
24 questioning that has not been done yet, counsel
25 for Orange County. So I'm going to end the

1 Isaac Rabinowitz

2 deposition at this point.

3 MR. KULLER: I will just say for the
4 record that counsel's position is that he is
5 ending the deposition. I say that there is no
6 way that I've asked more than two hours of
7 questions between the two days of depositions
8 that have been conducted in this action.

9 On the first day of the deposition that
10 was conducted in this action I didn't have the
11 opportunity to ask any questions. It's our
12 position that I'm certainly within my rights to
13 finish my deposition. So what I'm going to do
14 is I'm going to make a telephone call to Gail
15 Ritzert, who I understand is the partner in
16 charge of this case. I am going to ask her to
17 advise me in writing whether or not she will
18 agree to produce Mr. Rabinowitz to finish his
19 deposition. And if the answer is no, then we
20 will make the appropriate application to the
21 Court so that I can have the opportunity to
22 finish the deposition and so that any attorneys
23 that have followup questions can ask questions.

24 Before we end the deposition, I can
25 represent it will take no more than five minutes

1 Isaac Rabinowitz

2 now. I would like to ask him about the
3 subcontract between Orange County and HSD.

4 MS. NOREK-HATCH: I would like to say
5 that contrary to counsel's representations,
6 although the attorneys have been here for two
7 full days, we definitely have not gotten two
8 full days of testimony. First date of testimony
9 really amounted to perhaps no more than than two
10 and a half to three hours of testimony and
11 perhaps there was a total of about two and a
12 half hours today.

13 We have a difficult situation with the
14 Hebrew interpreter as well, in addition to
15 multiple parties. I do believe every party has
16 a right to have a reasonable amount of time to
17 question this very important witness and we have
18 not had any opportunity to ask any questions
19 yet.

20 Therefore, I request this witness be
21 reproduced for a reasonable amount of time, if
22 we need to agree on one for the remaining
23 testimony to take place.

24 MR. POLISHOOK: We just reserve our right
25 to any followup questions based on testimony

1 Isaac Rabinowitz
2 after our initial questioning.

3 MR. KULLER: We also say we're reserving
4 rights based on the fact that we feel there is
5 probably additional documents that haven't been
6 produced, that we are entitled to, that we would
7 like to question the witness on. I didn't have
8 an opportunity to question the witness on the
9 contract he entered into between the witness and
10 my client.

11 MR. TOBIN: I am Edward Tobin, attorney
12 for plaintiff. As far as plans are concerned,
13 this deposition is complete. However, if an
14 additional day of deposition testimony is
15 granted, like counsel, we are reserving our
16 rights to conduct examination with followup
17 questions based upon any further testimony
18 given.

19 In addition, as we are now making formal
20 request for the witness to come back for another
21 day, we are advising that we will not pay the
22 costs associated with another day of testimony.

23 We also ask that whatever records
24 Mr. Rabinowitz has that he is referring to,
25 drawings that were provided by Mr. Sharon, to

1 Isaac Rabinowitz

2 the extent there are any that haven't been
3 produced, that they please be produced.

4 MR. POLISHOOK: We have produced all of
5 the Sharon documents Mr. Rabinowitz testified
6 to.

7 MR. KULLER: We are adjourned.

8 (TIME NOTED: 5:00 p.m.)

9

10

11

12

ISAAC RABINOWITZ

13

14

15

Subscribed and sworn to before
me this _____ day of _____, 2012.

16

17

NOTARY PUBLIC SIGNATURE

18

19

20

21

NOTARY PUBLIC of the State of: _____

22

My Commission expires: _____, 20 ____.

23

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Job No. NJ1337053

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2 STATE OF NEW YORK) Page _____ of _____
3) ss:

4 COUNTY OF NEW YORK)

5 I wish to make the following changes, for the
6 following reasons:

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24 WITNESS' SIGNATURE

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25 Job No. NJ1337053

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WITNESS' SIGNATURE

DATE

24

Job No. NJ1337053

C E R T I F I C A T E

STATE OF NEW YORK)

SS:

COUNTY OF KINGS)

I, HANNA ROTH, a Shorthand

9 Reporter and Notary Public within and for the State
10 of New York, do hereby certify:

11 That ISAAC RABINOWITZ, the witness
12 whose deposition is hereinbefore set forth, was duly
13 affirmed by me, and that such deposition is a true
14 record of the testimony given by such witness.

15 I further certify that I am not related
16 to any of the parties to this action by blood or by
17 marriage, and that I am in no way interested in the
18 outcome of this matter.

19 IN WITNESS WHEREOF, I have
20 hereunto set my hand this 27th day of September 2012.

HANNA ROTH

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